



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 302

[Docket No. ACF-2020-0002]

RIN 0970-AC81

Optional Exceptions to the Prohibition Against Treating Incarceration as Voluntary Unemployment Under Child Support Guidelines

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: OCSE is withdrawing a previously published notice of proposed rulemaking (NPRM) that solicited public comment on two optional exceptions to the prohibition against treating incarceration as voluntary unemployment in child support cases.

DATES: The NPRM published at 85 FR 58029, September 17, 2020, is withdrawn, effective immediately.

FOR FURTHER INFORMATION CONTACT: Yvette Riddick, Division of Policy and Training, Office of Child Support Enforcement, (202) 401-4885. Email inquiries to ocse.dpt@acf.hhs.gov. Deaf and hearing-impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 between 8 a.m. and 7 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION: On September 17, 2020, HHS published an NPRM (85 FR 58029) to the regulations at 45 CFR Part 302 on two optional exceptions to the prohibition against treating incarceration as voluntary unemployment in child support cases. The NPRM included a comment period closing on November 16, 2020.

In response to the proposed rule, HHS received comments from 9 state child support agencies, 5 child support associations, 1 elected official, 1 nonprofit organization, and 33 private individuals. Most states are in compliance with the existing prohibition against treating incarceration as voluntary unemployment as stated in the Flexibility, Efficiency, and Modernization in Child Support Programs (FEM) final rule published in the *Federal Register* on December 20, 2016 (81 FR 93492). Setting and modifying realistic child support obligations for incarcerated parents can improve their ability to provide consistent support for their children upon release from prison. Formerly incarcerated noncustodial parents will be more likely to meet their child support obligations, benefiting their children by improving child support compliance and reliability, and reducing uncollectable debt. Other collateral consequences associated with orders set beyond a noncustodial parent's ability to pay may also decline, such as increased underground employment activity and reduced contact with their children.

HHS is therefore withdrawing the NPRM published on September 17, 2020 (85 FR 58029).

JooYeun Chang,
Acting Assistant Secretary
for Children and Families.

Xavier Becerra,
Secretary.

